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Attorney Docket No. 9536-3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Vance et al.

Application No.: 10/623, 930

Filed: July 21, 2003

For: *Compositions and Methods for the Modulation of Gene Expression In Plants*

Confirmation No.: 6465

Group Art Unit: 1646

Examiner: A. D. Mehta

Date: March 1, 2006

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

Claims 1-26 are pending in this application. In the outstanding Restriction Requirement dated February 2, 2006, claims 1-26 have been restricted into eight groups. In response to the Restriction Requirement, Applicants elect the claims of Group VI (claims 20 23 and 26) with traverse. The election is with traverse on the basis that it would not present an undue burden to search and examine claims 1-26 concurrently. In particular, it would not present an undue burden to search and examine the claims of Groups I to V and Groups VI to VIII concurrently. The claims of Groups II to V all ultimately depend from claim 1; thus, if claim 1 is found to be patentable over the art, the claims of Groups II to V are also patentable over the art without any further search and examination. Likewise, the claims of Groups VII and VIII all ultimately depend from claims 20 and 23 (in Group VI). If the claims of Group VI are found to be patentable over the art, the claims of Groups VII and VIII are also patentable over the art without any further search and examination. Accordingly, the restriction among claims 1-26 should be reconsidered and withdrawn.

Further, with respect to Groups I to III a further restriction under 35 U.S.C. § 121 has been made, and Applicants are required to elect a single first target sequence, modulator and single second target sequence, respectively. Applicants respectfully submit that search and examination of the claims of Groups I to III can

be carried out without reference to a specific target sequence or modulator; these claims are drawn to methods that can be practiced with any target sequence or modulator, and the restriction to a specific target sequence or modulator reflects an unduly narrow view of the claimed invention. Applicants therefore respectfully request that the further restriction under 35 U.S.C. § 121 with respect to the claims of Groups I to III be reconsidered and withdrawn.

Finally, if the outstanding restriction is maintained, the Applicants reserve the right of rejoinder of the restricted method claims once the elected product claims have been allowed.

This application is now in condition for substantive examination, which action is respectfully requested.

Respectfully submitted,



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